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Before the
Federal Communications Commission
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
)
Implementation of the) CC Docket No. 96-128
Pay Telephone Reclassification and)
Compensation Provisions of the)
Telecommunications Act of 1996)

**COMMENTS ON
PETITION FOR PARTIAL RECONSIDERATION**

AirTouch Paging ("AirTouch"), by its attorneys and pursuant to the *Public Notice*, DA 97-2734, released December 31, 1997, hereby submits its comments on the Petition for Partial Reconsideration (the "Petition") filed by the International Telecard Association ("ITA") on November 6, 1997, in the above-captioned proceeding. The following is respectfully shown:

1. The ITA Petition seeks reconsideration of the Common Carrier Bureau's *Order*, DA 97-2162, released October 7, 1997 (the "*Waiver Order*"), granting certain payphone service providers ("PSPs") a temporary waiver of the requirement that they transmit payphone-specific coding digits as a precondition to receiving per-call compensation under the compensation rules established in the Commission's *Payphone*

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Orders.^{1/} ITA requests that the Commission partially reconsider its action and preclude PSPs from assessing per-call compensation charges on prepaid phone card service providers for the duration of the waiver and until coding digit information is provided. Petition at 2.

2. AirTouch, which is itself seeking relief from the adverse consequences of the *Waiver Order*,^{2/} is sympathetic to the ITA position. Specifically, AirTouch agrees with ITA that the Commission erred in concluding that the relief granted to PSPs in the *Waiver Order* “will not significantly harm any parties.”^{3/} Tangible harm is directly attributable to the Staff’s decision to allow PSPs which are not transmitting payphone specific coding digits nonetheless to impose payment obligations on carriers.^{4/}

^{1/} *Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996*, CC Docket No. 96-18, *Report and Order*, 11 FCC Rcd 20,541 (1996), *Order on Reconsideration*, 11 FCC Rcd 21,233 (1996), *Second Report and Order*, FCC 97-371, released October 9, 1997.

^{2/} See AirTouch Paging Petition for Waiver filed December 15, 1997 upon which the Commission requested comment by *Public Notice*, DA 97-2735, released December 31, 1997.

^{3/} Petition at 2.

^{4/} With respect to ITA, its members are harmed because the failure by a PSP to transmit coding digits in real-time results in a prepaid phone service provider’s inability to track payphone calls and recover compensation paid to the PSP by debiting the charge from the prepaid card account. In the case of AirTouch, it is harmed by the inability to block calls from payphones to customers with pagers with 800 numbers who elect to be protected against unwanted per call charges for pages initiated from payphones.

3. While AirTouch is aligned in important respects with ITA, there are distinctions between the AirTouch waiver request and the ITA Petition that are noteworthy. ITA is concerned predominantly with real-time call tracking; AirTouch is concerned not only with call tracking but also with call blocking.^{5/} Because the ability to block calls figured prominently in the decision of the Court of Appeals to uphold portions of the payphone compensation scheme,^{6/} parties such as AirTouch who have elected to block calls and now find they are denied the identifying digits necessary to do so have a particularly compelling case for relief. Also, AirTouch has filed a narrowly tailored waiver request that is specific to its particular circumstances,^{7/} and only seeks relief with respect to those particular PSPs which are failing to provide the identifying digits.^{8/} Because of these distinctions, the Commission could grant the AirTouch waiver without regard to the outcome of the ITA partial reconsideration request.

^{5/} According to ITA, “the inability to engage in real-time blocking is not a matter of substantial concern” to its members. Petition at 3.

^{6/} See *Illinois Public Telecommunications Ass’n v. FCC*, 117 F.3d 555, 567, *clarified on rehearing*, 123 F.3d 693 (D.C. Cir. 1997).

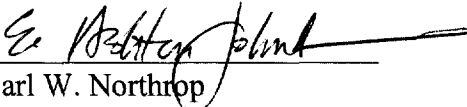
^{7/} For example, other paging carriers who have opted not to block calls to their pagers from payphones would not be in a position to seek relief on the grounds asserted by AirTouch. Thus, unlike ITA, AirTouch is not seeking relief that would extend to an entire category of carriers.

^{8/} ITA’s request could be read to be requesting blanket relief from payment obligations throughout the waiver period.

Respectfully submitted,

AIRTOUCH PAGING

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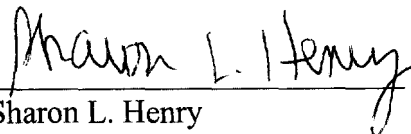
January 15, 1998

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CERTIFICATE OF SERVICE

I, Sharon L. Henry, hereby certify that I have on this 15th day of January, 1997, caused a true and correct copy of AirTouch Paging's foregoing "Comments on Petition for Partial Reconsideration" to be sent by first-class United States mail, postage prepaid, to the following:

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